REMARKS

Claims 1 to 40 are pending. Claims 1-8 have been canceled. New claims 34-40 have been added.

No new matter is added by these amendments. Support for claim 34 is found in original claim 5. Support for claim 35 is found in original claim 7. Support for claim 36 is found in original claim 8. Support for claims 37, 38, 39 and 40 is found in paragraphs 48, 58, 53 and 50 of the published application, respectively.

§ 102 Rejections

Claims 1-3, 6, 9-10, 12-24, and 28-33 stand rejected under 35 USC § 102(b) as being anticipated by Lemelson (US 6,317,058). Applicant respectfully traverses the rejection to the extent such rejection may be considered applicable to the amended claims, or to non-amended, non-canceled claims. Lemelson fails to disclose each and every feature of the claimed invention, as required by 35 U.S.C. 102(b), and provides no teaching that would have suggested the desirability of modification to include such features.

Claims 9-10 and 12-13 provide a system for providing information to motorists, all comprising at least a radio transmitter that transmits a signal on the particular radio frequency being displayed by the programmable sign display for viewing by motorists as they direct their attention toward the traffic light, the signal corresponding to information relevant to motorists. (See Applicant's claim 9).

Lemelson provides no teaching or suggestion of a radio transmitter transmitting on a frequency being displayed by the programmable sign display as part of any localized system. Lemelson discusses communication between control centers 10, traffic warning sign 20, and a local controller 5 via radio links. (Col. 10, lines 1-11.) Lemelson also states that it will inform a driver of a traffic accident via radio communication using GPS coordinates. (Col. 10, lines 22-25.) None of these passages teach a radio transmitter transmitting on a frequency being displayed by a programmable sign display.

Rather, Lemelson actually teaches away from motorists relying on traditional, non-GPS-specific broadcast radio transmissions, citing these transmissions as part of the problem his

invention aims to solve, "... motorists often find themselves caught in a traffic jam before the radio station is able to inform them of the traffic situation. Moreover, the current traffic information provided by local radio stations may not be relevant for some specific drivers, particularly drivers at different geographic locations or headed in different directions. [...] The lack of localized traffic information prevents motorists from avoiding local traffic jams or congestion areas that are not reported by the radio stations." (Col. 1, lines 30-39). Thus Lemelson does not teach or suggest an element of Applicant's claim, and rejection is improper.

Applicant's claims 14-21 relate to a system for providing types of information to motorists regarding an approaching emergency vehicle, comprising in part a receiver in proximity to a programmable sign display that receives a particular signal sent from the approaching emergency vehicle upon the approaching emergency vehicle coming within range of the receiver and wherein the receiver generates the display instruction to the programmable sign display in response to receiving the particular signal. (See Applicant's claims 14 and 18).

Lemelson never teaches or suggests any use of a signal received from an approaching emergency vehicle wherein a receiver generates a display instruction for a programmable sign display. Rather, Lemelson teaches automobiles fitted with "vehicle traffic warning controller[s] and communications unit[s]" that have global positioning receivers (see Lemelson's description starting Col. 10, line 47). But Lemelson never teaches or suggests that the positional, geographical coordinate-type information computed by the vehicle traffic warning controller and communication unit would ever be communicated outward. To the contrary, Lemelson envisions that the locational GPS data specific to an individual car be used *by that car's controller* in combination with information from central controllers about the general nature of traffic in the area. The individual car's controller, then, would determine relevancy of general traffic data and warnings based on its own GPS coordinates, and might display this information individually to the car's occupants (see col. 6, line 61).

The only *outward* signal emanating from a vehicle envisioned by Lemelson is described in Col. 11, starting at line 9, and in relevant part provides: "Two-way voice communications permits advising the central control station of emergencies that may involve the transmitting vehicle or reports of driver observations of other emergency or traffic congestion situations." In this most basic way, Lemelson is describing humans sending a distress call (via cell phone, for

example) to a central command center. Lemelson does not teach or suggest having a receiver that generates a display instruction in response to a signal received from the approaching emergency vehicle. Instead, Lemelson teaches an emergency call center. Thus Lemelson does not teach or suggest an element of Applicant's claim, and rejection is improper.

Applicant's claims 22-24 provide for a method of providing visual information to motorists on a programmable sign placed in proximity to a traffic light, comprising, among other things, content to be displayed on the programmable sign display from one or more customers. (See Applicant's claim 22).

Lemelson never teaches or suggests using sign displays in proximity of a traffic light to display content from one or more customers. Lemelson's focus is on "controlling traffic and traffic lights and selectively distributing warning messages to motorists." Lemelson never teaches or suggests using signs to display content from customers. Rather, the information Lemelson suggests displaying is related to traffic management.

Applicant's claims 28-30 provide a method of providing a remote programming service for a programmable sign display located in proximity to a traffic light, comprising among other things, receiving, by a managing entity, content from a plurality of customers. Similar to the points made regarding Applicant's claims 22-24, above, Lemelson never teaches or suggest using signs to display content from customers. Rather, the only information Lemelson suggests displaying is related to traffic management.

Applicant's claims 31-33 provide a system for providing information to motorists, comprising, among other things, a receiver that detects a signal provided by an approaching emergency vehicle and that generates a display instruction in response to detecting the signal. (See Applicant's claim 31). As mentioned above, Lemelson never teaches or suggests a receiver that generates a display instruction in response to detecting a signal from an approaching emergency vehicle. Rather, Lemelson teaches automobiles fitted with "vehicle traffic warning controller[s] and communications unit[s]" that have global positioning receivers (see Lemelson's description starting Col. 10, line 47). But Lemelson never teaches or suggests that the positional, geographical coordinate-type information computed by the vehicle traffic warning controller and communication unit would ever be communicated outward. To the contrary, Lemelson envisions that the locational GPS data specific to an individual car be used *by that car's controller* in

combination with information from central controllers about the general nature of traffic in the area. The individual car's controller, then, would determine relevancy of general traffic data and warnings based on its own GPS coordinates, and might display this information individually to the car's occupants (see col. 6, line 61).

The only *outward* signal emanating from a vehicle envisioned by Lemelson is described in Col. 11, starting at line 9, and in relevant part provides: "Two-way voice communications permits advising the central control station of emergencies that may involve the transmitting vehicle or reports of driver observations of other emergency or traffic congestion situations." In this most basic way, Lemelson is describing humans sending a distress call (via cell phone, for example) to a central command center. Lemelson does not teach or suggest having a receiver that generates a display instruction in response to a signal received from the approaching emergency vehicle. Instead, Lemelson teaches an emergency call center. Thus Lemelson does not teach or suggest an element of Applicant's claim, and rejection is improper.

Lemelson fails to disclose each and every limitation set forth in claims 9-10, 12-24, and 28-33. For at least these reasons, the Examiner has failed to establish a prima facie case for anticipation of Applicant's claims 9-10, 12-24, and 28-33 under 35 U.S.C. 102(b). Withdrawal of this rejection is requested.

§ 103 Rejections

Claims 4-5, 8, 11 and 25-27 stand rejected under 35 USC § 103(a) as being unpatentable over Lemelson et al. Applicant has cancelled claims 1-8. Applicant respectfully traverses the rejection to the extent such rejections may be considered applicable to the claims as amended. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

It is well established that the Examiner bears the burden of establishing a prima facie case of obviousness.[1] In doing so, the Examiner must determine whether the prior art provides a "teaching or suggestion to one of ordinary skill in the art to make the changes that would

[1] *In re Oetiker*, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

produce" the claimed invention.[2] A prima facie case of obviousness is established only when this burden is met.

Applicant first notes Examiner has not combined Lemelson with another explicit reference. Applicant respectfully challenges Examiner's factual assertions as not properly officially noticed, or not properly based upon common knowledge.

Applicant's claim 11 depends from claim 9, and further provides that the programmable sign periodically changes to indicate a different radio frequency, the system further comprising a second radio transmitter that transmits a signal on the different radio frequency being periodically displayed by the programmable sign display. Examiner stated, "it would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise a first and second radio transmitter with different radio frequencies, since this would have reduced wear on any one radio transmitter." Applicant disagrees this would have been obvious, and respectfully requests Examiner provide authority for this statement, as per MPEP § 2144.03(C).

Applicant further takes issue, with regard to claim 11, with Examiner's stated motivation, "since this would have reduced wear on any one radio transmitter." First, this motivation is unsupported by documentation. But second, Examiner's purported motivation does not address why the transmitters would be transmitting on multiple frequencies. If the goal were merely to reduce wear, it would seem unnecessary to transmit on multiple frequencies.

With regard to claims 25-27, Examiner states, "it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate any information as desired including adverting and barter exchange, since signs that display this type of information is already well known, and therefore, incorporation into the system of Lemelson would have enhanced in the information display capabilities of the system." Applicant disagrees this would have been obvious, and respectfully requests Examiner provide authority for this statement, as per MPEP § 2144.03(C).

Applicant further points out that, for each claim, specific features and limitations were not addressed by Examiner. In particular, for example, with respect to claim 25, Applicant's claim requires a bartered exchange between the managing entity and the customers. Examiner

[2] *In re Chu*, 36 USPQ2d 1089, 1094 (Fed. Cir. 1995).

has not addressed this limitation, via official notice or otherwise, as far as Applicant can read from Examiner's Office Action. With regard to Applicant's claim 26, which provides that one or more customers comprise government customers and advertising customers, Examiner has similarly not addressed this limitation. Finally, Applicant's claim 27 contains multiple limitations, including sending, by a managing entity, self-promoting programming to the programmable sign display. Examiner's Office Action did not address this or other limitations.

The rejection of claims 11, 25-27 under 35 USC § 103(a) as being unpatentable over Lemelson et al. has been overcome and should be withdrawn.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Respectfully submitted,

January 5, 2006
Date

By: Steven A. Bern
Steven A. Bern, Reg. No.: 57,095
Telephone No.: 651-733-2255

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833